SCHEDULES

SCHEDULE 3

Section 6

PENSIONS: TREATMENT OF PERSONS AT AGE 75

Introductory

1 This Schedule applies to persons who reach the age of 75 on or after 22 June 2010.

Pension rules applying at age 77 instead of age 75

2 (1) The provisions of FA 2004 listed in sub-paragraph (2) have effect in relation to a person to whom this Schedule applies as if—

(a) any reference in those provisions to the age of 75 were a reference to the age of 77, and

(b) any reference in those provisions to a person's 75th birthday were a reference to a person's 77th birthday.

(2) The provisions are—

(a) in section 165 (pension rules), pension rules 4 and 6;

(b) in Part 1 of Schedule 28 (pension rules)—

(i) paragraph 7 (meaning of "income withdrawal");

(ii) paragraph 9(2) (unsecured pension year);

(iii) paragraph 11(2) to (4) (member's alternatively secured pension fund);

(c) in section 167 (pension death benefit rules), pension death benefit rules 3 and 5;

(d) in Part 2 of Schedule 28 (pension death benefit rules)—

(i) paragraph 21 (meaning of "dependants' income withdrawal");

(ii) paragraph 23(2) (unsecured pension year);

(iii) paragraph 25 (dependant's alternatively secured pension fund);

(e) paragraph 17 of Schedule 29 (unsecured pension fund lump sum death benefit).

3 (1) In paragraphs 6 and 20 of Schedule 28 to FA 2004 (short-term annuities), sub-paragraph (1) has effect in relation to an annuity to which this paragraph applies as if the reference in paragraph (d) of that sub-paragraph to the age of 75 were a reference to the age of 77.

(2) This paragraph applies to an annuity that—

(a) is purchased on or after 22 June 2010, and

(b) is payable to a person to whom this Schedule applies.

4 Sub-paragraphs (6) and (7) of paragraph 11 of Schedule 28 to FA 2004 (cases where member's whereabouts are unknown at age 75) have effect in relation to a person to whom this Schedule applies as if—

(a) any reference in sub-paragraphs (6)(a) and (7) to the age of 75 were a reference to the age of 77, and

(b) for paragraph (b) of sub-paragraph (6) there were substituted—

"(b) paragraph 8(2) applied in relation to the member and the arrangement at the time when the member reached the age of 75 and none of the sums or assets held for the purposes of the arrangement were member-designated funds immediately before it applied."

Treatment of lump sums to which persons become entitled at age 75

5 Where, by virtue of the operation of sub-paragraph (2) of paragraph 8 of Schedule 28 to FA 2004 (automatic designation of funds as available for payment of unsecured pension at age 75), a person to whom this Schedule applies becomes entitled to a pension under an arrangement, the amount of any lump sum to which the person becomes entitled in connection with the pension does not form part of any relevant uncrystallised funds for the purposes of that sub-paragraph.

6 (1) Despite paragraph 5, the amount crystallised by benefit crystallisation event 1 in section 216 of FA 2004 (benefit crystallisation events and amounts crystallised) is to be taken to include the amount of any such lump sum (regardless of whether or not it has been paid to the person).

(2) Accordingly, the person becoming entitled to such a lump sum is not a benefit crystallisation event under that section.

7 Paragraph 1 of Schedule 29 to FA 2004 (pension commencement lump sum) has effect in relation to any such lump sum as if in sub-paragraph (3)(b) the words "otherwise than by virtue of the operation of paragraph 8(2) of Schedule 28" were omitted.

8 (1) If there are any remaining uncrystallised funds at the end of the period referred to in paragraph 1(1)(c) of Schedule 29 to FA 2004 (period for payment of pension commencement lump sum), they are to be treated, for the purposes of paragraph 8 of Schedule 28 to that Act, as having been designated under the arrangement as available for the payment of unsecured pension at that time.

(2) If the person dies before the end of that period, any remaining uncrystallised funds are to be treated, for the purposes of paragraph 8 of Schedule 28 to FA 2004, as having been designated under the arrangement as available for the payment of unsecured pension immediately before the person's death.

(3) "Remaining uncrystallised funds" means such of the sums and assets held for the purposes of the arrangement as are not member-designated funds and have not been applied towards the provision of a scheme pension or a dependants' scheme pension.

Application of rules of pension schemes

9 (1) For the purposes of any provision (however framed) that is included in the rules of a registered pension scheme in consequence of any provision of FA 2004 mentioned in paragraphs 2 to 4, the trustees or managers of the pension scheme may treat any relevant person as if the person had not reached the age of 75.

(2) A "relevant person" is a person—

(a) to whom this Schedule applies, and

(b) who has not reached the age of 77.

(3) Where the trustees or managers of a registered pension scheme so determine, the rules of the pension scheme are to be treated as conferring on any person to whom this Schedule applies an entitlement to a lump sum in connection with a pension of the kind mentioned in paragraph 5.

Interpretation

10 Any term used in this Schedule and in Part 4 of FA 2004 has the same meaning in this Schedule as it has in that Part.

Status:
Point in time view as at 27/07/2010.

Changes to legislation:
There are currently no known outstanding effects for the Finance (No. 2) Act 2010, SCHEDULE 3.